

**American Arbitration Association
CONSTRUCTION INDUSTRY ARBITRATION RULES**

HOSPITALITY BUILDERS, INC.,

Case No.:

Claimant,

and

SPOKANE SOUTH MEDICAL, LLC,

Respondent.

DEMAND FOR ARBITRATION

TO THE FOLLOWING NAMED RESPONDENT:

Spokane South Medical, LLC

James Mulloy, Member

16114 East Indiana, Ste 200

Spokane Valley, WA 99216

Telephone: 509-990-4645

Email: malbco@msn.com

Respondent's representative:

Bryce Wilcox

Lee & Hayes, P.C.

601 West Riverside Avenue Suite 1400

Spokane, Washington 99201

Telephone: 509-944-4629

Email: bryce@leehayes.com

Claimant Hospitality Builders, Inc., a party to a written arbitration agreement contained in a Contract for the Cost of the Work Plus a Fee dated April 15, 2015, (the "Contract"), between Claimant as Contractor and Respondent Spokane South Medical, LLC as Owner, for the construction of a 109-unit Hampton Inn & Suites project and related improvements at Spokane, Washington (the "Project"), and providing for arbitration under the Construction Industry Arbitration Rules of the American Arbitration Association (the "Rules"), hereby demands arbitration thereunder. A copy of the applicable arbitration clause in Article 7 of the Addendum & Supplementary Conditions to the Contract is attached hereto and incorporated herein by reference.

NATURE OF DISPUTE:

Respondent has breached and is default under the Contract by failing and refusing to timely pay all Costs of the Work and Contractor's Fees according to the Contract and Claimant's Applications for Payment, and by otherwise breaching and anticipatorily repudiating the Contract. Contractor terminated the Contract for cause effective November 29, 2019, following written notices and opportunity to cure to Respondent in accordance with the Contract.

Respondent owes Claimant the sum of at least \$716,990.98 upon Claimant's Applications for Payment through the effective date of Claimant's termination of the Contract, plus all additional amounts as become due after such date for the full Costs of the Work and Contractor's Fees for the Project as provided in the Contract. In addition, Claimant is entitled to recover its other damages, attorney fees and costs, and interest at the Contract rate of 12% per annum on all amounts due and unpaid under the Contract. Claimant's claims for such additional compensation are subject to arbitration herein.

CLAIM OR RELIEF SOUGHT:

Claimant seeks an award from the Arbitrator as follows: (a) requiring Respondent forthwith pay the full amount of Claimant's claims and damages in accordance with the terms of the Contract, in the initial estimated amount of \$800,000; (b) requiring Respondent pay, indemnify, defend and hold Claimant harmless with respect to any claims, demands, liens or litigation asserted by Subcontractors, vendors or others arising out of or relating to Respondent's defaults and breach of the Contract and Claimant's termination of the Contract; (c) determining Claimant has no liability or warranty obligations with respect to any Work completed prior to or after the termination of the Contract, and that Respondent shall indemnify, defend and hold Claimant harmless against the same; (d) determining Respondent is obligated to collect, report and pay all Washington states taxes applicable to the Work and the Project and shall indemnify, defend and hold Claimant harmless with respect to the same; (e) requiring Respondent pay or reimburse Claimant's attorney fees, case filing fees, administrative fees, arbitrator compensation and expenses and all other costs and disbursements in this arbitration and in any court action(s) seeking to compel arbitration or to enforce the arbitration award; and (f) awarding interest at the Contract rate of 12% per annum upon all sums due and unpaid under the Contract or awarded by the arbitrator herein, from the date payment was due until paid in full.

INDUSTRY CATEGORY OF EACH PARTY:

Claimant:	Contractor
Respondent:	Owner

ESTIMATED TIME NEEDED FOR HEARING:

Two to three days.

HEARING LOCALE REQUESTED:

Aberdeen, South Dakota, which is the hearing locale agreed upon by the parties and specified in the arbitration clause contained in the Contract attached as Exhibit A hereto. The parties' agreement as to such locale is binding pursuant to the Construction Industry Arbitration Rules of the Association.

MEDIATION REQUESTED:

Claimant requests mediation as provided in Rule R-10.

YOU ARE HEREBY NOTIFIED that copies of this Demand and of the Exhibit are being filed with the American Arbitration Association, with a request that it commence the administration of the arbitration. The Association will provide notice of your opportunity to file an answering statement.

Dated: January 10, 2020.

HALL LAW FIRM

/s/ Ronald J. Hall

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Aberdeen, SD 57401-2715
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CLAIMANT:

HOSPITALITY BUILDERS, INC.
150 Knollwood Drive
Rapid City, SD 57701
Telephone: 605-791-3400
Fax: 605-791-5518
Email: kevin@hospitalitybuilders.com

EXHIBIT A TO DEMAND FOR ARBITRATION

EXCERPT FROM OWNER-CONTRACTOR CONTRACT:

ARTICLE 7
MISCELLANEOUS PROVISIONS

- 7.1 The Contract shall be governed by the law of the State of South Dakota, without regard to any conflicts of law principles, unless otherwise agreed between the parties. The parties expressly and specifically agree that the exclusive forum and venue of any litigation or legal proceedings arising under the Contract Documents shall be the United States District Court for the District of South Dakota, Northern Division, or the Fifth Judicial Circuit Court of South Dakota for Brown County, and the parties hereby consent and submit to the jurisdiction thereof and waive any objections relating to such forum and venue.
- 7.2 All claims or disputes between the Contractor and the Owner arising out of, or relating to, the Contract or the Contract Documents or the breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. The parties specifically and expressly agree that the hearing locale for any arbitration proceedings conducted under the Contract Documents shall be in Aberdeen, South Dakota. Notice of the demand for arbitration shall be filed in writing with the other party to the Owner-Contractor Agreement and with the American Arbitration Association according to the applicable Rules. Any claims or disputes between Contractor and one or more Subcontractors shall be consolidated and joined with arbitration between Contractor and Owner where it is shown that (1) the parties are substantially involved in one or more common questions of fact or law, or (2) in the absence of such consolidation complete relief cannot be accorded in the arbitration, and (3) the interest or responsibility of the person(s) to be joined is not insubstantial. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. This agreement to arbitrate shall be specifically enforceable under prevailing Federal and State arbitration laws. In any legal proceedings to compel arbitration in accordance with this agreement, or to stay litigation pending such arbitration, the prevailing party shall be entitled to recover its attorney fees and expenses from the other party.